

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ERIC W. POIRIER

Petitioner,

v.

Case No. 10-C-0637

**MICHAEL S. THURMER, Warden,
Waupun Correctional Institution
Respondent.**

ORDER

On July 27, 2010, Eric W. Poirier filed this petition pursuant to 28 U.S.C. § 2254, asserting that his state court conviction and sentence were imposed in violation of the Constitution. On August 5, 2010, I determined that the petition was a second or successive petition, that petitioner had not obtained permission from the Seventh Circuit to file a second or successive petition, and that therefore the petition had to be dismissed for lack of subject matter jurisdiction. See 28 U.S.C. § 2244(b). On August 24, 2010, petitioner filed a motion asking me to reconsider my dismissal of his petition. Petitioner does not dispute that the petition is second or successive or that he has not obtained permission from the court of appeals to file it. Instead, he contends that I should reconsider my decision because he is actually innocent of the crimes for which he was convicted. However, whether he is actually innocent or not, the fact remains that I lack jurisdiction to consider a second or successive petition unless the court of appeals authorizes me to do so.

THEREFORE, IT IS ORDERED that petitioner motion for reconsideration is **DENIED**.

Dated at Milwaukee, Wisconsin, this 31 day of August, 2010.

/s _____
LYNN ADELMAN
District Judge